

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

ANTHONY G.,

Plaintiff,

Case No. 3:22-cv-24

vs.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

District Judge Michael J. Newman
Magistrate Judge Peter B. Silvain, Jr.

Defendant.

ORDER: (1) ADOPTING IN FULL THE REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE (Doc. No. 10); (2) VACATING THE ALJ'S NON-DISABILITY FINDING; (3) MAKING NO FINDING AS TO WHETHER PLAINTIFF WAS UNDER A "DISABILITY" WITHIN THE MEANING OF THE SOCIAL SECURITY ACT; (4) REMANDING THIS CASE, UNDER SENTENCE FOUR OF 42 U.S.C. § 405(g), TO THE ALJ FOR FURTHER PROCEEDINGS; AND (5) TERMINATING THIS CASE ON THE COURT'S DOCKET

This Social Security case is before the Court on the Report and Recommendation issued by United States Magistrate Judge Peter B. Silvain, Jr., (doc. no. 10), to whom this case was referred pursuant to 28 U.S.C. § 636(b). Judge Silvain recommended that the ALJ's non-disability finding be vacated and that the Court make no finding as to whether Plaintiff was under a "disability" within the meaning of the Social Security Act. Doc. No. 10. The Commissioner has not filed any objection to the Report and Recommendation.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(a), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all filings in this matter, including the Commissioner's objections. Upon careful *de novo* consideration of the foregoing, the Court determines that the Report and Recommendation should be adopted.

Accordingly, it is hereby **ORDERED** that: (1) the Report and Recommendation (doc. no. 10) is **ADOPTED** in full; (2) the ALJ's non-disability finding is **VACATED**; (3) no finding is made as to whether Plaintiff was under a "disability" within the meaning of the Social Security Act; (4) pursuant to Sentence Four of 42 U.S.C. § 405(g), this case is **REMANDED** to the ALJ for further proceedings consistent with this Order and the Magistrate Judge's Report and Recommendation (doc. no. 10); and (5) this case is **TERMINATED** on the Court's docket.

IT IS SO ORDERED.

February 2, 2023

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge